

- 411g. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty.
- 411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members.
- 412. Appropriations for travel: may not be used for attendance at certain meetings.
- 413. Chairman and Vice Chairman of the Joint Chiefs of Staff.
- 414. Personal money allowance.
- 415. Uniform allowance: officers; initial allowance.
- 416. Uniform allowance: officers; additional allowances.
- 417. Uniform allowance: officers; general provisions.
- 418. Clothing allowance: enlisted members.
- 419. Civilian clothing allowance.
- 420. Allowances while participating in international sports.
- 421. Allowances: no increase while dependent is entitled to basic pay.
- 422. Cadets and midshipmen.
- 423. Validity of allowance payments based on purported marriages.
- 424. Band leaders.
- 425. United States Navy Band; United States Marine Band: allowances while on concert tour.¹
- [426. Repealed.]
- 427. Family separation allowance.
- 428. Allowance for recruiting expenses.
- 429. Travel and transportation allowances: minor dependent schooling.
- 430. Travel and transportation: dependent children of members stationed overseas.
- 431. Benefits for certain members assigned to the Defense Intelligence Agency.
- 432. Travel and transportation: members escorting certain dependents.
- 433. Allowance for muster duty.
- 434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams.

AMENDMENTS

1994—Pub. L. 103-337, div. A, title VI, § 602(a)(2), Oct. 5, 1994, 108 Stat. 2781, added item 403b.

1992—Pub. L. 102-484, div. A, title VI, § 623(a)(2), Oct. 23, 1992, 106 Stat. 2423, added item 434.

1990—Pub. L. 101-510, div. A, title V, § 504(a)(1), title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1559, 1717, revised chapter heading so as to appear in all capital letters and renumbered Pub. L. 95-561, § 1407(c)(1)(B). See 1978 Amendment note below.

1989—Pub. L. 101-189, div. A, title V, § 502(b)(2), title VI, § 624(a)(2), Nov. 29, 1989, 103 Stat. 1437, 1448, added items 406c and 433.

1987—Pub. L. 100-180, div. A, title VI, §§ 611(a)(2), 614(a)(2), (d)(3), 615(a)(2), title XIII, § 1314(c)(2), Dec. 4, 1987, 101 Stat. 1093-1096, 1176, substituted “leave between consecutive overseas tours” for “certain leave” in item 411b, added items 411g and 411h, inserted “and Vice Chairman” in item 413, added item 419, and redesignated former items 419 and 420 as 420 and 421, respectively.

Pub. L. 100-26, § 8(b)(1), Apr. 21, 1987, 101 Stat. 285, redesignated item 431 “Travel and transportation: members escorting certain dependents” as item 432.

1986—Pub. L. 99-661, div. A, title VI, § 615(a)(2), Nov. 14, 1986, 100 Stat. 3880, added item 431 “Travel and transportation: members escorting certain dependents”.

1985—Pub. L. 99-145, title VI, §§ 616(c)(2), 620(a)(2), title XIII, §§ 1302(b)(2), 1303(b)(7), Nov. 8, 1985, 99 Stat. 641, 643, 738, 740, substituted “allowances:” for “allowances:” in item 404 and “departure” for “evacuation” in item

405a, struck out “away from home port” after “inactivating” in item 406b, added item 411f, substituted “allowances” for “allowance” in item 425, and added item 431 “Benefits for certain members assigned to the Defense Intelligence Agency”.

1984—Pub. L. 98-525, title VI, §§ 602(d)(2), 612(a)(2), Oct. 19, 1984, 98 Stat. 2536, 2539, struck out “; variable housing allowance” after “Basic allowance for quarters” in item 403, and added item 403a, and substituted “personal emergencies for certain members and dependents” for “certain emergencies for members performing temporary duty” in item 411d.

1983—Pub. L. 98-94, title IX, §§ 910(a)(2), 932(e)(2), Sept. 24, 1983, 97 Stat. 639, 650, struck out item 421 “Contract surgeons” and added item 430.

1981—Pub. L. 97-60, title I, §§ 122(a)(2), 126(b), Oct. 14, 1981, 95 Stat. 1003, 1005, added items 404a, 411c, 411d, and 411e.

Pub. L. 97-22, § 11(b)(3)(B), July 10, 1981, 95 Stat. 138, substituted “uniformed services” for “Uniformed Services” in item 406b.

1980—Pub. L. 96-343, § 4(a)(3), Sept. 8, 1980, 94 Stat. 1125, substituted “for quarters; variable housing allowance” for “for quarters” in item 403.

Pub. L. 96-342, title VIII, § 808(a)(2), Sept. 8, 1980, 94 Stat. 1097, substituted “house trailers and mobile homes” for “trailers” in item 409.

1978—Pub. L. 95-561, title XIV, § 1407(d)(1)(B), formerly § 1407(c)(1)(B), Nov. 1, 1978, 92 Stat. 2367, as renumbered by Pub. L. 101-510, div. A, title V, § 504(a)(1), Nov. 5, 1990, 104 Stat. 1559, added item 429.

1973—Pub. L. 93-213, § 1(2), Dec. 28, 1973, 87 Stat. 910, added item 411b.

Pub. L. 93-170, § 1(2), Nov. 29, 1973, 87 Stat. 689, substituted “overhauling or inactivating” for “overhauling” in item 406b.

1971—Pub. L. 92-129, title II, § 205(b), Sept. 28, 1971, 85 Stat. 359, added item 428.

1970—Pub. L. 91-210, § 1(2), Mar. 13, 1970, 84 Stat. 53, added item 406b.

1968—Pub. L. 90-377, § 9, July 5, 1968, 82 Stat. 288, struck out item 426 “Prisoners in naval confinement facilities”.

1967—Pub. L. 90-207, § 9(2), Dec. 16, 1967, 81 Stat. 655, inserted item 411a.

1965—Pub. L. 89-26, § 1(2), May 22, 1965, 79 Stat. 117, inserted item 405a.

1964—Pub. L. 88-647, title II, § 202(6), Oct. 13, 1964, 78 Stat. 1071, substituted “Cadets and midshipmen” for “Cadets, midshipmen, and naval officer candidates” in item 422.

1963—Pub. L. 88-238, § 1(2), Dec. 23, 1963, 77 Stat. 476, inserted item 406a.

Pub. L. 88-132, § 11(2), Oct. 2, 1963, 77 Stat. 217, added item 427.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 907 of this title; title 10 section 1051.

§ 401. Definitions

(a) DEPENDENT DEFINED.—In this chapter, the term “dependent”, with respect to a member of a uniformed service, means the following persons:

- (1) The spouse of the member.
- (2) An unmarried child of the member who—
 - (A) is under 21 years of age;
 - (B) is incapable of self-support because of mental or physical incapacity and is in fact dependent on the member for more than one-half of the child’s support; or
 - (C) is under 23 years of age, is enrolled in a full-time course of study in an institution of higher education approved by the Secretary concerned for purposes of this sub-

paragraph, and is in fact dependent on the member for more than one-half of the child's support.

(3) A parent of the member if—

(A) the parent is in fact dependent on the member for more than one-half of the parent's support;

(B) the parent has been so dependent for a period prescribed by the Secretary concerned or became so dependent due to a change of circumstances arising after the member entered on active duty; and

(C) the dependency of the parent on the member is determined on the basis of an affidavit submitted by the parent and any other evidence required under regulations prescribed by the Secretary concerned.

(4) An unmarried person who—

(A) is placed in the legal custody of the member as a result of an order of a court of competent jurisdiction in the United States (or Puerto Rico or a possession of the United States) for a period of at least 12 consecutive months;

(B) either—

(i) has not attained the age of 21;

(ii) has not attained the age of 23 years and is enrolled in a full time course of study at an institution of higher learning approved by the Secretary concerned; or

(iii) is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member under this paragraph pursuant to clause (i) or (ii);

(C) is dependent on the member for over one-half of the person's support;

(D) resides with the member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the Secretary concerned may by regulation prescribe; and

(E) is not a dependent of a member under any other paragraph.

(b) OTHER DEFINITIONS.—For purposes of subsection (a):

(1) The term “child” includes—

(A) a stepchild of the member (except that such term does not include a stepchild after the divorce of the member from the stepchild's parent by blood);

(B) an adopted child of the member, including a child placed in the home of the member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member; and

(C) an illegitimate child of the member if the member's parentage of the child is established in accordance with criteria prescribed in regulations by the Secretary concerned.

(2) The term “parent” means—

(A) a natural parent of the member;

(B) a stepparent of the member;

(C) a parent of the member by adoption;

(D) a parent, stepparent, or adopted parent of the spouse of the member; and

(E) any other person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before the member became 21 years of age.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 469; Pub. L. 93-64, title I, §§103, 104, July 9, 1973, 87 Stat. 148; Pub. L. 100-26, §8(e)(7), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-190, div. A, title VI, §621, Dec. 5, 1991, 105 Stat. 1377; Pub. L. 103-160, div. A, title VI, §631(a), Nov. 30, 1993, 107 Stat. 1683; Pub. L. 103-337, div. A, title VII, §701(b), Oct. 5, 1994, 108 Stat. 2797.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
401	37:231(g) (less last proviso of last sentence).	Oct. 12, 1949, ch. 681, §102(g) (less last proviso of last sentence), 63 Stat. 804; Sept. 8, 1950, ch. 922, §1, 64 Stat. 794; Mar. 23, 1953, ch. 8 (as applicable to §102(g)), 67 Stat. 6; June 30, 1955, ch. 250, §103 (as applicable to §102(g)), 69 Stat. 224; Mar. 23, 1959, Pub. L. 86-4, §3 (as applicable to §102(g)), 73 Stat. 13.

The words “lawful”, “at all times and in all places”, “except as hereinafter limited in this subsection”, and “in addition to those persons otherwise defined as dependents in this subsection” are omitted as surplusage. In clause (1), the word “spouse” is substituted for words “wife” and “husband”. Clause (2) is substituted for the 16th through 24th words of the first sentence of section 231(g) of existing title 37 and the third sentence (less last proviso) of section 231(g) of existing title 37. Clause (3) is substituted for the second sentence of section 231(g) of existing title 37 and the last sentence (less provisos) of section 231(g) of existing title 37. The second sentence is substituted for the last proviso of the third sentence of section 231(g) of existing title 37. The last sentence is substituted for the first proviso of the last sentence of section 231(g) of existing title 37.

AMENDMENTS

1994—Subsec. (b)(1)(B). Pub. L. 103-337 substituted “placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member” for “placement agency for the purpose of adoption”.

1993—Subsec. (a)(4). Pub. L. 103-160 added par. (4).

1991—Pub. L. 102-190 amended text generally. Prior to amendment, text read as follows: “In this chapter, the term ‘dependent’, with respect to a member of a uniformed service, means—

“(1) his spouse;

“(2) his unmarried child (including any of the following categories of children if such child is in fact dependent on the member: a stepchild; an adopted child; or an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member) who either—

“(A) is under 21 years of age; or

“(B) is incapable of self-support because of a mental or physical incapacity, and in fact dependent on the member for over one-half of his support; and

“(3) his parent (including a stepparent or parent by adoption, and any person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before the member became 21 years of age) who is in fact dependent on the member for over one-half

of his support; however, the dependency of such a parent is determined on the basis of an affidavit submitted by the parent, and any other evidence required under regulations prescribed by the Secretary concerned, and he is not considered a dependent of the member claiming the dependence unless—

“(A) the member has provided over one-half of his support for the period prescribed by the Secretary concerned; or

“(B) due to changed circumstances arising after the member enters on active duty, he becomes in fact dependent on the member for over one-half of his support.

For the purposes of this section, the relationship between a stepparent and his stepchild is terminated by the stepparent's divorce from the parent by blood.”

1987—Pub. L. 100-26 inserted “the term” after “In this chapter.”

1973—Cl. (2). Pub. L. 93-64, §103(1), in revising cl. (1) of first sentence, substituted “unmarried child” for “unmarried legitimate child” and defined dependent to include an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member.

Cl. (3). Pub. L. 93-64, §104, in revising cl. (3) of first sentence, substituted “five years before the member became 21 years” for “five years before he became 21 years”, struck out requirement of actual residence of parent in the member's household, and inserted provision respecting determination of dependency of parent, including items (A) and (B), formerly contained in former section 2201 of Appendix to Title 50, War and National Defense.

Closing text. Pub. L. 93-64, §103(2), struck out second sentence, following cl. (3) of first sentence, stating that a person is not a dependent of a female member unless he is in fact dependent on her for over one-half of his support.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 631(b) of Pub. L. 103-160 provided that: “Section 401(a)(4) of title 37, United States Code, as added by subsection (a), shall apply with respect to determinations of dependency made on or after July 1, 1994.”

EFFECTIVE DATE OF 1973 AMENDMENT

Section 206 of Pub. L. 93-64 provided that: “This Act [enacting section 1173 of Title 10, Armed Forces, amending this section and sections 302, 302a, 303, 308a, and 403 of this title, and repealing sections 2210 to 2212 of Title 50, Appendix, War and National Defense] shall become effective July 1, 1973.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403b, 411f of this title; title 10 section 2002; title 31 section 3342.

§ 402. Basic allowance for subsistence

(a) Except as otherwise provided by law, each member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for subsistence as set forth in this section.

(b)(1) An enlisted member is entitled to the basic allowance for subsistence, on a daily basis, of one of the following types—

(A) when rations in kind are not available;

(B) when permission to mess separately is granted; and

(C) when assigned to duty under emergency conditions where no messing facilities of the United States are available.

(2) The allowance to an enlisted member, when authorized, may be paid in advance for a period

of not more than three months. An enlisted member is entitled to the allowance while on an authorized leave of absence, while confined in a hospital, or while performing travel under orders away from his designated post of duty other than field duty or sea duty. The allowance for an enlisted member who is authorized to receive the basic allowance for subsistence under this subsection is at the rate prescribed in accordance with section 1009 of this title or as otherwise prescribed by law.

(3) Unless he is entitled to basic pay under chapter 3 of this title, an enlisted member of a reserve component of a uniformed service, or of the National Guard, is entitled, in the discretion of the Secretary concerned, to rations in kind, or a part thereof, when the instruction or duty periods, described in section 206(a) of this title, total at least eight hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.

(4) In the case of enlisted members of the Army, Navy, Air Force, or Marine Corps who, when present at their permanent duty station, reside without dependents in Government quarters, the Secretary concerned may not provide a basic allowance for subsistence to more than 12 percent of such members under the jurisdiction of the Secretary concerned. The Secretary concerned may exceed such percentage if the Secretary determines that compliance would increase costs to the Government, would impose financial hardships on members otherwise entitled to a basic allowance for subsistence, or would reduce the quality of life for such members. This paragraph shall not apply to members described in the first sentence when the members are not residing at their permanent duty station. The Secretary concerned shall achieve the percentage limitation specified in this paragraph as soon as possible after the date of the enactment of this paragraph, but in no case later than September 30, 1996.

(c) An officer of a uniformed service who is entitled to basic pay is, at all times, entitled to the basic allowances for subsistence at the monthly rate prescribed in accordance with section 1009 of this title. An aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to the same basic allowance for subsistence as is provided for an officer of the Navy, Air Force, Marine Corps, or Coast Guard, respectively.

(d) Under regulations and in areas prescribed by the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an enlisted member who is granted permission to mess separately, and whose duties require him to buy at least one meal from other than a messing facility of the United States, is entitled to not more than the pro rata allowance authorized for each such meal for an enlisted member when rations in kind are not available.

(e)(1) The President may prescribe regulations for the administration of this section, including definitions of the terms “field duty” and “sea duty” for purposes of subsection (b)(2).